

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AMERICAN IRON AND
STEEL INSTITUTE, *et al.*,

Petitioners,

v.

U.S. ENVIRONMENTAL
PROTECTION AGENCY, *et al.*,

Respondents.

No. 20-1354

consolidated with No. 20-1355

**EPA’S UNOPPOSED MOTION
TO GOVERN FURTHER PROCEEDINGS**

Respondents, the United States Environmental Protection Agency and Michael Regan, in his official capacity as Administrator of the United States Environmental Protection Agency (collectively “EPA” or “Respondents”), move to govern further proceedings in the manner set forth herein. The other parties to this case—Petitioners and Intervenor-Applicants¹ American Iron and Steel Institute and United States Steel Corporation in Case No. 20-1354 (“Industry Petitioners”), and

¹ American Iron and Steel Institute and United States Steel Corporation filed an unopposed motion to intervene in Case No. 20-1355, which remains pending. ECF No. 1865890 (Oct. 13, 2020).

Petitioners in Case No. 20-1355, Clean Air Council, Hoosier Environmental Council, NAACP LaPorte County Branch 3061, and Sierra Club (“Environmental Petitioners”)—do not oppose this motion.

The above-mentioned cases involve challenges to EPA’s “2020 Rule,” i.e., EPA’s final rule under 42 U.S.C. § 7412 of the Clean Air Act titled “National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Residual Risk and Technology Review,” 85 Fed. Reg. 42074 (July 13, 2020). A second, related set of cases, led by *Cleveland-Cliffs Inc. v. EPA*, No. 24-1170 (D.C. Cir.), involves challenges to EPA’s subsequent “2024 Rule,” i.e., EPA’s final rule under 42 U.S.C. § 7412 titled “National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review,” 89 Fed. Reg. 23297 (Apr. 3, 2024). This motion is filed pursuant to the Court’s Orders dated July 11, 2024, and November 6, 2024, in the present case (i.e., *American Iron and Steel Institute v. EPA*, No. 20-1354 (D.C. Cir.)) that instructed the parties to file motion(s) to govern further proceedings after the Court’s resolution of the stay motions in *Cleveland-Cliffs Inc. v. EPA*, No. 24-1170 (D.C. Cir.). On October 24, 2024, the Court denied the stay motions in *Cleveland-Cliffs*.²

² EPA is filing a proposed briefing schedule in *Cleveland-Cliffs*.

Procedurally, the Court has held the present case in abeyance since October 7, 2020 (at the parties' request). ECF No. 1865389. That abeyance date preceded the deadline for initial submissions such as docketing statements, procedural motions (including intervention motions), and the certified index to the administrative record. Thus, the parties' case management proposal, set forth below, includes proposed deadlines for initial submissions and motions that may affect the scope and timing of briefing (such as Respondents' and Environmental Petitioners' planned motion(s) to consolidate discussed below).

I. General case management: Environmental Petitioners and Respondents assert that the Court should consolidate this proceeding (i.e., petitions for review of the 2020 Rule, Nos. 20-1354 and 20-1355) with *Cleveland-Cliffs* (i.e., petitions for review of the 2024 Rule, Nos. 24-1170, 24-1171, 24-1177). Industry Petitioners do not agree and reserve their right to assert that the challenges to the 2020 Rule should be held in abeyance pending the outcome of the 2024 Rule litigation. Although the parties' positions regarding general case management differ at this time, the parties agree that the Court should await the parties' filing of procedural motion(s) respecting general case management by the proposed procedural motion deadline of January 10, 2025, as set forth below in section II of this motion below, before finalizing a briefing schedule. All parties agree to the deferred appendix approach.

II. Proposed initial submission deadlines for the present case

(regarding the 2020 Rule):

- ALL PETITIONERS' docketing statement due 1/10/25.
- ALL PETITIONERS' certificate as to parties due 1/10/25.
- ALL PETITIONERS' statement of issues due 1/10/25.
- ALL PETITIONERS' deferred appendix statement due 1/10/25.
- ALL PETITIONERS' and RESPONDENTS' procedural motions
(including any procedural motion regarding general case
management) due 1/10/25.
- ALL PETITIONERS' and RESPONDENTS' dispositive motions due
1/17/25.
- RESPONDENTS' certified index to record due 1/17/25.
- ALL PETITIONERS' and RESPONDENTS' proposals on briefing
schedule and format to be submitted by a date set by the Court
following resolution of procedural and dispositive motions.

Respectfully submitted on November 21, 2024.

Todd Kim
Assistant Attorney General

 /s/ Andrew J. Doyle
Andrew J. Doyle
Attorney
U.S. Department of Justice
Environment and Natural Resources Division

San Francisco Field Office
450 Golden Gate Avenue, Suite 07-6714
San Francisco, CA 94102
(202) 532-3156 (mobile)
andrew.doyle@usdoj.gov

Attorney for Respondents

CERTIFICATE OF COMPLIANCE

This motion complies with the size limitations of the Federal Rules of Appellate Procedure and the Rules of this Court because it contains no more than 774 words. Further, this motion uses Times New Roman 14 and is proportionally spaced.

/s/ Andrew J. Doyle